

May 27, 1999

By Federal Express

Mary L. Cottrell, Secretary

Department of Telecommunications and Energy

Leverett Saltonstall Building

100 Cambridge Street

Boston, MA 02202

Re: Comments on the Department's proposed revisions to the Regulations governing sales of electricity by Qualifying Facilities and On-site Generating Facilities to Distribution Companies, and Sales of Electricity by Distribution Companies to Qualifying Facilities and On-site Generating Facilities, 220 C.M.R. §§ 8.00 et seq., ("QF Regulations"); D.T.E. 99-38.

Dear Secretary Cottrell:

Massachusetts Electric Company and Nantucket Electric Company (collectively "Company") appreciate the opportunity to submit the following comments on the QF Regulations. In general, the Company supports the Department's efforts to update the regulations governing QFs in light of industry restructuring. In this letter, I will make general comments about the need to distinguish between large and small QFs in these regulations and the time requirements set forth, and then will make some specific comments about other provisions in the proposed regulations.

General Comment about the Need to Distinguish QFs by Size

The regulations make no distinctions with respect to the size of the QF. They treat a small 60 kW QF with net metering the same as a 80 MW generator. From both the Distribution Company's and the QF's perspective, this is not appropriate. A large generator is more sophisticated and will wish to make decisions about when and how to run seven days a week, twenty-four hours a day, based on the current market conditions. It is more appropriate for that generator to deal directly with the ISO than to use the Distribution Company as an intermediary. The generator will not have the inconvenience of using an intermediary, and the Distribution Company will not suffer the financial costs and administrative burden of acting as one. Thus, we recommend that facilities five MW and greater deal directly with the ISO and that the Distribution Company continue to handle the smaller ones. This recommendation does not conflict with the Public Utility Regulatory Policies Act of 1978 ("PURPA"). PURPA requires the utility to offer to buy from QFs, but it does not require QFs to sell to utilities.

General Comments about Time Requirements

The regulations set forth several time requirements. For example, 220 CMR 8.03(1)(c) requires the Distribution Company to respond to a QF within thirty days of an offer to sell power, and allows the QF to petition the Department if after 120 days there is a failure to agree to terms. 220 CMR 8.03 (6)(a) requires the Distribution Company to interconnect with the QF sixty days after the QF has notified the Distribution Company of its desire to interconnect. In many instances, one or the other party has the right to petition the Department for additional time or input on the reasonableness of actions. These specific time requirements and the others in the regulations raise two issues. First, they are internally inconsistent, as are the ones cited which give the Distribution Company 120 days to come to an agreement but allow only sixty for an interconnection. Second, they do not take into account the vastly different scenarios that a Distribution Company faces when determining the best way to interconnect and handle a facility. While in some instances sixty days may be sufficient for an interconnection, in other instances it may be much too short. For these reasons, we recommend that the Department delete references to specific time requirements, and instead apply a reasonableness standard to actions taken pursuant to the regulations.

220 CMR 8.02

We recommend making the following revisions to the definitions:

- (1) The correct corporate name of the ISO is "ISO New England, Inc.;" and
- (2) The Short-Run Rate is "the hourly market clearing price for energy and the monthly market clearing price for installed capacity, as determined by the ISO, and its successors." Capacity is not an hourly market.

220 CMR 8.03(1)

Section (b) provides that a QF may sell its output to a Distribution Company pursuant to a standard contract (subsection 1) or a negotiated contract (subsection 2). We advise the Department to encourage the use of the standard contract and not allow the regulations to imply that a Distribution Company must negotiate a separate contract with each QF. This could be extremely time consuming and could become the exception that swallows the rule. Thus, we recommend that subsection 2 be revised to state: "A negotiated contract executed by the Qualifying Facility and a Distribution Company, if agreed to by the Distribution Company."

Similarly, section (c) suggests that the Distribution Company must negotiate with the QF. We recommend that the Department delete this section (c) in its entirety, and rely on other provisions in the regulations which set the rates to be paid.

220 CMR 8.03(2)(a)

This provision relating to payments from the Distribution Company to the QF does not apply to QFs which use net metering. A Distribution Company purchasing the output from facilities using net metering cannot sell that output to the ISO power exchange. Thus, we recommend revising the first sentence of this paragraph as follows: "A Distribution Company purchasing the output from facilities which utilize bidirectional metering may selling the output of a ~~Qualifying Facility~~ such facilities to the ISO Power Exchange and will pay the Qualifying Facility rates equal to the payments received from the ISO power exchange for output for the hours in which the Qualifying Facility generated electricity in excess of its requirements."

In addition, proposed 220 CMR 8.03(2)(a) requires the Distribution Company to pay the QF rates equal to the payments received from the ISO power exchange for output for the hours in which the QF generated electricity. The Distribution Company will incur expenses in administering this subsection, and the Company recommends that it be allowed to recover those costs from the QF. As discussed above, this provision can only apply to facilities using bidirectional metering. For Qualifying Facilities using net metering, the Distribution Company must be able to recover the costs in its distribution rates.

220 CMR 8.04(8)

As written, this section does not address QFs equal to or smaller than 60 kW, which are net metered. We recommend making the following language subsection (b), and identifying the current (b) and (c) as (c) and (d).

(b) Qualifying Facilities and On-Site Generating Facilities with a design capacity equal to or less than 60 kW shall be required to use a standard service meter capable of running backwards. Such facilities may, at their expense, request the installation of bidirectional, interval metering with remote access capability. Such meter shall be in compliance with NEPOOL standards and requirements for meters on generation resources.

In addition, we recommend revising the current (c) to make it parallel with the current (b) by adding to the beginning of (c): "Where the Qualifying Facility or On-Site Generating Facility chooses to have the Distribution Company owns the meter,. . ."

220 CMR 8.04(9)(a)

This provision allows the QF or On-Site Generating Facility to choose between getting a check from the Distribution Company or a credit on its bill for payment for power supplied. We do not object to this provision for QF and On-Site Generating Facility accounts that are current. For past due accounts, however, we recommend that the QF not be allowed to take payment in the form of a check. Thus, we propose that the Department modify this section as follows:

(a) If not in arrears on its payments to the Distribution Company, a Qualifying Facility or On-Site Generating Facility selling power to a Distribution Company may choose to receive a check from the Distribution Company as payment for power supplied or may have payment credited towards its bill from the Distribution Company. If the Qualifying Facility or On-Site Generating Facility is in arrears on its payments to the Distribution Company, the Distribution Company shall have the option of first crediting any payment

towards the bill and refunding any balance to the Qualifying Facility or On-Site Generating Facility.

220 CMR 8.05

We recommend making distinctions between facilities above and below 5 megawatts. If there are no distinctions based on size, the Distribution Company will be required to have staff available twenty four hours a day, seven days a week, to service facilities above 5 megawatts. As stated above, we recommend that the facilities 5 MW and above deal with the ISO power exchange directly.

For all others, we recommend revising this section not according to size, but according to the type of metering used. While size will usually dictate meter type, the facilities less than or equal to 60 kW will have the option of using bidirectional, interval metering with remote access or net metering, as discussed above in our comments regarding 220 CMR 8.04(8). In the first sentence of (1), we recommend adding the following: "All Qualifying Facilities, regardless of size, which utilize bidirectional, interval metering with remote access, are eligible. . ." We recommend revising the first sentence of (2)(a) to read "Qualifying Facilities that ~~have a design capacity of more than 60 kW~~ utilize bidirectional, interval metering with remote access shall. . ." We recommend deleting (2)(b) and replacing it with the following:

(b) Qualifying Facilities which utilize net metering shall be paid, for the total negative read, at rates equal to the arithmetic average of the NEPOOL market clearing prices for energy for the prior calendar month.

In addition, we recommend specifically noting in 220 CMR 8.05(2)(a) that payments received are net of incremental expenses, including but not limited to ISO tariff costs, incurred as a result of the purchase.

Finally, in 220 CMR 8.05(6), we recommend deleting the second paragraph which requires each Distribution Company to file its line loss factors with the Department for its review. We recommend instead that the line loss factors be in accordance with NEPOOL standards. Thus, we recommend the following sentence to replace the current second sentence: "Line Loss Factors shall be in accordance with the NEPOOL Market Rules and Procedures."

Again, thank you very much for the opportunity to submit these comments.

Very truly yours,

Amy G. Rabinowitz

Attorney for Massachusetts Electric Company and Nantucket Electric Company